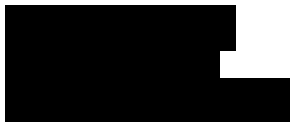


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2012 24086
Issue No.: 2009; 4031
Case No.: [REDACTED]
Hearing Date: March 12, 2012
Wayne County DHS (17)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on March 12, 2012 from Detroit, Michigan. The claimant appeared and testified. Dannelly Smith the Claimant's Authorized Hearing Representative and [REDACTED] a witness for the Claimant also appeared. On behalf of Department of Human Services (DHS), [REDACTED], ES, appeared and testified.

ISSUE

Whether a hearing is required to determine whether DHS properly denied Claimant's April 25, 2011 application for Medical Assistance (MA) and State Disability Assistance (SDA) benefits on the basis that Claimant is not a disabled individual.

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On 4/25/11, Claimant applied for SDA and MA benefits.
2. On 5/16/11/11, the Medical Review Team (MRT) determined that Claimant was not a disabled individual.
3. On 5/20/11, DHS denied Claimant's application for MA and SDA benefits and mailed a Notice of Case Action informing Claimant of the denial.

4. On 5/31/11, Claimant requested a hearing disputing the denial of SDA and MA benefits.
5. On 6/22/11, the State Hearing Review Team (SHRT) determined that Claimant was not a disabled individual (see Exhibits 59-60) based, in part, on Vocational-Rule 202.20.
6. An Administrative Hearing was held on August 9, 2011 before Administrative Law Judge Christian Gardocki.
7. A Hearing Decision was issued by ALJ Gardocki on August 12, 2011 which Reversed the Department's denial of the Claimant's application for MA – P and SDA and found the Claimant to be disabled. (Exhibit 5).
8. The Hearing Decision by ALJ Gardocki ordered the Department to do the following:
 - (1) reinstate Claimant's application dated 4/25/11 for SDA and MA benefits;
 - (2) upon reinstatement, evaluate Claimant's eligibility for MA and SDA benefits on the basis that Claimant is a disabled individual;
 - (3) supplement Claimant for any benefits not received as a result of the improper denial;
 - (4) if Claimant is found eligible for MA and SDA benefits, to schedule a review for 8/2012.

The actions taken by DHS are REVERSED. (Exhibit 5).

9. The Department did not comply with the Hearing Decision and reprocessed the case again for review by the Medical Review Team and SHRT, which steps were unnecessary and not in compliance with the Hearing Decision.
10. The Claimant requested another hearing on December 2, 2011 as the second and unnecessary review process found the Claimant not disabled.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). DHS (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies are found in

the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. DHS administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. DHS policies for SDA are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

SDA provides financial assistance to disabled adults who are not eligible for Family Independence Program (FIP) benefits. BEM 100 at 4. The goal of the SDA program is to provide financial assistance to meet a disabled person's basic personal and shelter needs. *Id.* To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261 at 1.

A person is disabled for SDA purposes if the claimant (see BEM 261 at 1):

- receives other specified disability-related benefits or services, see Other Benefits or Services below, or
- resides in a qualified Special Living Arrangement facility, or
- is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability; or
- is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).

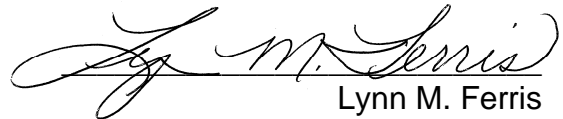
The undersigned is not required to make any finding of disability as a previous Hearing Decision issued by ALJ Christian Gardocki issued August 12, 2011 has already found Claimant to be disabled for purposes of MA benefits by finding that Claimant has combined physical and mental impairments expected to last one year or more. The Hearing Decision analysis applies equally to a determination of SDA benefits. The finding makes Claimant automatically eligible for SDA benefits based on the lesser 90 day durational requirement. It is found that DHS improperly failed to comply with the Hearing Decision and ALJ Christian Gardocki's Decision and Order.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that DHS improperly denied Claimant's MA and SDA benefits and did not comply with the Hearing Decision dated August 12, 2011 issued by ALJ Christian Gardocki. Accordingly, IT IS ORDERED:

1. The Department shall initiate implementation of the Hearing Decision issued August 12, 2011 by ALJ Christian Gardocki finding the Claimant is Disabled and REVERSING the Department's denial of MA-P and SDA.

2. The Department shall reinstate the Claimant's application dated 4/25/11 for SDA and MA-P, and shall initiate processing and complete any further determination of whether all non medical eligibility criteria are met.
3. The Department shall supplement Claimant for any benefits not received as a result of the improper denial of disability and non compliance with the Hearing Decision of August 12, 2011 retroactive to the date of application, April 25, 2011.
4. The Department shall schedule and conduct a review of Claimant's Disability status in August 2012 as previously ordered.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 15, 2012

Date Mailed: March 15, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases).

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

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Request must be submitted through the local DHS office or directly to MAHS by mail to:
Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

LMF/hw

cc:

